

**REMARKS****Amendments to the claims**

Claims 1, 4-20 and 23-38 are currently pending in the application. Independent claims 1 and 20 now incorporate amendments that further clarify Applicant's claimed invention which comprises a first component comprising an anchoring member produced from an elastic polymeric material and a second component comprising an anchoring member produced from an elastic polymeric material. No new matter has been entered. Support for the amendments to claims 1 and 20 exists in now canceled dependent claims 3 and 22 and in paragraph [0032] of Applicant's Specification, reproduced here in pertinent part:

[0032] ...anchoring members may be produced from stock having a degree of elasticity. Connecting members are produced separately from stock which is substantially inelastic.

Accordingly, reconsideration and withdrawal of the pending rejections are requested in view of the instant amendments and the accompanying remarks.

**Rejection Under 35 USC 102(b)**

The Examiner has rejected claims 1, 3, 4, 6, 10-12, 18-20, 22, 23, 25, 29-31, 33, 37 and 38 under 35 USC 102(b) as being anticipated by US Patent No. 6,329,564 ("Lebner '564"). More specifically, the Patent Office states on Page 3 of the office action that Lebner '564 anticipates every element of independent claims 1 and 20, which language is reproduced here in pertinent part:

More specifically, Lebner discloses a two-component device (1) for closing a laceration or incision comprising: a) a first component...being produced from a material having a degree of elasticity...b) one or more first connecting members (15), produced from a substantially inelastic material, ...c) a second component (25) ...being produced from a material having a degree of elasticity...[and] d) one or more second connecting members (35), produced from a substantially inelastic material...

With regard to column 2, lines 60-66 of the Lebner '564 patent, the Office Action further states that, "...Lebner discloses that the components, connectors, and pulling elements may be constructed from elastic material reinforced with an inelastic structural component. Thereby disclosing **both** elastic and inelastic material used as the material of construction for the components and the connectors."

Applicant respectfully disagrees and traverses this rejection. Lebner '564 fails to

disclose a wound closure device comprising first and second anchoring members produced from an elastic polymeric material as recited in at least Applicant's independent claims 1 and 20. In contrast to Applicant's device, the device of Lebner '564 teaches a substantially inelastic device. As highlighted by the instant Office Action, column 2, lines 60-66 of the Lebner '564 patent state the following language:

In preferred embodiments, the flat flexible components, elongated connectors, and pulling elements described in the preceding paragraph are produced from a substantially inelastic polymeric material. Alternatively, they may be produced from an elastic material which is reinforced with an inelastic structural component thereby rendering the device substantially inelastic.

At column 2, lines 66-70 and Column 3, lines 1-4 Lebner '564 then recites exemplary inelastic materials and a preferred rigid and inelastic polymer reinforcement material.

For example, such inelastic material may include monofilament polymeric line or mesh. Reinforcement of the flat flexible components along the wound edge, and of the pulling elements, is preferably done using a material which is both rigid and inelastic (e.g., a rigid polymer is a preferred material for this purpose).

Lebner thus fails to disclose first and second anchoring members produced from an elastic polymeric material and instead discloses an inelastic device made either from inelastic material or from elastic material reinforced with rigid, inelastic material. The substantially inelastic device of Lebner '564 thus precludes inclusion of elastic first and second anchoring members.

Applicant respectfully submits that Lebner '564 fails to anticipate independent claims 1 and 20 and that claims 1 and 20 are in condition for allowance. Because claims 3, 4, 6, 10-12, 18, and 19 depend from claim 1 and because claims 22, 23, 25, 29-31, 33, 37 and 38 depend from claim 20, these dependent claims are also in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### Rejections Under 35 USC 103(a)

The Examiner has rejected dependent claims 5, 7-9, 13, 15-17, 24, 26-28, 32 and 34-36 under 35 USC 103(a) as being unpatentable over US Patent No. 6,329,564 ("Lebner '564"). Because these claims depend from independent claims 1 and 20, Applicant will address this obviousness rejection at the independent claim level.

Applicant respectfully traverses this rejection. As stated above, Lebner '564 fails to disclose first and second anchoring members produced from an elastic polymeric material and

instead teaches away from that key feature of Applicant's device. Lebner '564 discloses an inelastic device and means for effectively rendering any elastic material inelastic. In contrast, Applicant teaches a device having first and second components comprising anchoring members produced from an elastic polymeric material. This is a non-trivial distinction.

The elastic components of Applicant's device function differently than the substantially inelastic components of Lebner '564 and solve a unique problem left unaddressed by Lebner '564. Whether or not the first and second components of Lebner '564 are made from a single, substantially inelastic polymeric material or an elastic material reinforced with an inelastic structural component that renders the device substantially inelastic, the first and second components remain inelastic and function as inelastic components. Applicant's specification describes the elastic anchoring member components at paragraph [0031], reproduced here in pertinent part:

For example, a degree of elasticity is a desirable feature in an anchoring member when applied, for example, to an area such as a joint. An anchoring member produced from a film having a degree of elasticity is less likely to release prematurely than an anchoring member produced from a substantially inelastic material when applied to such an area.

Lebner '564 neither teaches nor suggests this key feature of Applicant's invention. In fact, Lebner '564 teaches away from anchoring members produced from an elastic polymeric material for successful application to a flexible area, such as a joint. Instead, Lebner '564 explicitly teaches a substantially inelastic device and provides no motivation for creating Applicant's invention. The substantially inelastic device of Lebner '564 would release from a flexible area, such as a joint, instead of stretching and flexing with the joint so as to remain securely attached. The elastic anchoring members of Applicant's invention thereby create a device having distinct capabilities not taught or motivated by the Lebner '564 reference.

Applicant respectfully submits that Lebner '564 fails to teach or suggest Applicant's invention and in fact teaches away from Applicant's invention as claimed in independent claims 1 and 20. Independent claims 1 and 20 thus are in condition for allowance. Because claims 5, 7-9, 13, 15-17 depend from claim 1 and because claims 24, 26-28, 32 and 34-36 depend from claim 20, those dependent claims are all also in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Summary

In light of the above arguments, consideration of the subject patent application is respectfully requested. Any deficiency or overpayment should be charged or credited to Deposit Account No. 500282.

Respectfully submitted,



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